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USAA Federal Savings Bank

December 24, 2009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Re: Docket No. R-1366

Dear Ms. Johnson:

USAA Federal Savings Bank ("USAA") is submitting this comment letter in response to the proposed rulemaking amending Regulation Z and the Official Staff Commentary ("Proposed Rule") issued by the Board of Governors of the Federal Reserve System ("Board") to implement changes primarily to closed-end mortgage lending. While USAA has a number of concerns with the Proposed Rule, USAA is limiting its comments to closed-end credit and those which raise the most serious concerns.

1. Expansion of Fees and Charges Included in the Finance Charge/Interest and Settlement Charges ("Finance Charge").

The Board acknowledges that eliminating the current 12 CFR 226.4 (c)(7) exemptions from the Finance Charge and adding various settlement services and recording fees will significantly increase the Annual Percentage Rate ("APR"). The stated purpose for adding these charges is to better inform consumers of the true cost of credit and bring more uniformity to the calculation of the APR. However, there are several adverse consequences to this proposal:

- a. If the current Section 32 and High Cost Mortgage thresholds are retained, the number of loans that are truly high cost will be overstated. The inclusion of these charges will add complexity to the determination of whether the loan is truly a high cost

mortgage or other factors, like location of the property or the borrower's insurance risk, make home ownership more expensive.

- b. The availability of mortgage loan credit may be curtailed if lenders avoid making high cost mortgage loans because of secondary market limitations, additional disclosure requirements, and increased litigation exposure.

USAA Proposal. USAA urges the Board to retain the current finance charge exclusions, but implement new requirements that would:

(1) Except for credit report and application fees, prohibit a lender from charging appraisal and other fees until the lender determines the applicant is qualified for the amount of the credit without considering the appraised value of the collateral property. This would encourage consumers to submit applications to more than one lender.

(2) Require lenders to provide each applicant with a list of typical closing costs for various loan types for shopping purposes in a format similar to the new Good Faith Estimate format under the Real Estate Settlement Procedures Act ("RESPA"). The typical closing costs are part of the cost of credit and the applicant can readily compare fees and charges.

(3) Require lenders to explain to the applicant how long (in terms of months or years) it will take the applicant to recover the cost of paying down the interest rate (with discount points or origination fees) so that the applicant can consider paying the fee or accepting the higher interest rate.

(4) Require lenders to refer consumers to an electronic brochure on the Board's website, developed by the Board with industry input, explaining what a borrower should consider when comparing rates and fees while shopping for a mortgage.

Special Consideration for Insurance Purchased from an Affiliate. USAA strongly opposes the proposal to treat property insurance obtained from an affiliate of the creditor the same as insurance obtained by or through the creditor. The proposal would require the lender to make more stringent disclosures about the

insurance sold by an affiliate to exclude it from the Finance Charge. The proposal does not provide the applicant with any additional protection and places these companies at a disadvantage, in terms of additional disclosures, with companies that do not offer a full range of financial and insurance products and services designed for their customers.

The Board notes in its prefatory material that the insurance market is already competitive and consumers already understand they can get property insurance from a number of qualified companies. These facts demonstrate that this additional requirement would be of little benefit to consumers.

2. Prohibition on Telephone Purchase of Optional Insurance Products

The Board suggests that the sale of optional insurance products by telephone is inappropriate because creditors do not provide consumers with additional information about the products after the sale or that consumers may purchase the products prior to obtaining the all required disclosures. The Board believes that there is a need for more face-to-face interaction for closed end products giving the creditor the opportunity to provide disclosures and obtain consent for the sale of the product.

USAA strongly believes that the Board should not implement this proposed change. The number of consumers who conduct transactions face-to-face has declined significantly since the introduction of transactional websites and commercial electronic communications. Many consumers choose to have little or no personal contact with the lender when obtaining a mortgage loan. For a lender like USAA that has a national customer base (principally the U.S. Military and their families) and limited branches, interaction with customers is almost exclusively by telephone and the internet. This proposal will deny consumers the ability to purchase optional insurance products in the manner in which they choose to conduct business with the lender. Conversely, face-to-face sales place the consumer in a selling environment that is more advantageous to the lender, even though the lender will be required to provide disclosures concerning the product. In lieu of adopting an absolute prohibition, USAA suggests the Board consider rules similar to those adopted by the Office of the Comptroller of the Currency ("OCC") for telephone sales and sales by other electronic means. USAA believes that the

OCC's rules protect consumers while allowing creditors a reasonable method to provide consumers with choices about what products to purchase and how to conduct their transactions.

If the Board still believes that it must provide rules concerning face to face sales of optional insurance products, USAA believes that providing consumers with information after the sale to the extent it is not already provided, or cannot be provided, electronically during the sale would preserve the telephone and internet channel for consumers who prefer to do business in these manners.

3. Alternatives to Pre-Consummation Disclosures (Corrected Final Disclosures)

The Board requested comment on two alternatives to providing corrected disclosures after making final disclosures required by 12 CFR 226.19(a)(2)(ii). USAA agrees with the Board's assessment that it is not always in the consumer's best interest to delay consummation of a loan if any of the required disclosures change. Consumers may be moving long distances, particularly U.S. Military personnel, with furniture and other deliveries already scheduled in light of the closing date. Delays that provide no real protections will cause USAA's members to incur additional storage, housing, and other unexpected costs at a time when they may already be making substantial cash outlays. If a member of the U.S. Military is deploying, he or she may incur additional expenses and difficulties to arrange for a document signature. USAA strongly urges the Board to adopt the proposed Alternative 2.

4. Flood Insurance Disclosures and Force Placement

The proposal is not completely clear on the treatment of flood insurance. For example, it is not likely that a creditor will know the property is located in a flood zone at the time of application and it may not know at the time the disclosures required within three business days of application are sent. If the Board considers flood insurance to be property insurance, then it should not require the inclusion of a flood insurance premium in the escrow portion of the disclosures until such time as a determination has been made. The Board may consider requiring lenders to provide a statement about adding flood insurance premiums to the escrow account if the property is found to be in a flood zone. Additionally, the Board should clarify how the current

flood insurance forced placement requirements coordinate with the proposed forced place property insurance notice under the proposed 226.20(e).

5. Additional Form Revisions

The Board has indicated it will continue to test the various proposed forms during the comment period and after the comment period has closed. Given the implementation period required to make the proposed changes, USAA does not believe the Board should adopt final forms until there has been opportunity to comment on the revisions.

USAA appreciates the opportunity to comment on the Board's proposed revisions to Regulation Z and the Official Commentary. Please call me at 210.498.8710 or contact me at ron.digiacom@usaa.com if you have any questions or need additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'RDCS', is positioned above the printed name.

Ron DiGiacomo